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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

10 AS YOU SOW, a 501 (c)(3) non-profit corporation,

11 Plaintiff,

V.

Etsy, Inc., and DOES 1-20, inclusive

Defendants,

Case No. 24-cv-04203-MMC

PLAINTIFF'S REQUEST FOR JUDICIAL NOTICE

Date: October 11, 2024

Time: 9:00 a.m.

Place: Courtroom 7, 19th Floor

Federal District Court
450 Golden Gate Avenue
San Francisco, CA 94102

Hon. Maxine M. Chesney, presiding

1 Pursuant to Rule 201 of the Federal Rules of Evidence, Plaintiff AS YOU SOW requests the
 2 Court take judicial notice of certain documents from a related matter that was decided before the
 3 Court of Appeal of the State of California, First Appellate District.

4 Federal Rule of Evidence 201(b) provides that this Court may take judicial notice of any
 5 “fact that is not subject to reasonable dispute because it (1) is generally known within the trial
 6 court’s territorial jurisdiction; or (2) can be accurately and readily determined from sources whose
 7 accuracy cannot reasonably be questioned.” *See also Santa Monica Food Not Bombs v. City of*
Santa Monica, 450 F.3d 1022, 1025 fn. 2 (9th Cir. 2006). Rule 201 of the Federal Rules of
 8 Evidence allows judicial notice to be taken of the existence and authenticity of public and quasi-
 9 public documents. *Del Puerto Water Dist. v. U.S. Bureau of Reclamation*, 271 F. Supp. 2d 1224,
 10 1234 (E.D. Cal. 2003); *see also, California ex rel. RoNo, LLC v. Altus Finance S.A.*, 344 F.3d 920,
 11 931 (9th Cir. 2003) (“requests for judicial notice are GRANTED to the extent that they are
 12 compatible with Federal Rule of Evidence 201 and do not require the acceptance of facts ‘subject to
 13 reasonable dispute.’”); *Kent v. Daimlerchrysler Corp.*, 200 F. Supp. 2d 1208, 1219 (N.D. Cal.
 14 2002); *Rosenfeld v. JPMorgan Chase Bank, N.A.*, 732 F. Supp. 2d 952, 959 (N.D. Cal. 2010).

15 Plaintiff request that the Court take judicial notice of the following documents:

16 Plaintiff seeks judicial notice of *amicus curiae* briefing in a related matter *Larry Lee v.*
Amazon.com, Inc., Case No. A158275 (Trial Court Case No. RG14738130), which deals with
 17 substantially similar causes of action as the instant matter, and are attached herein as Exhibits A and
 18 B. Plaintiff also seeks judicial notice of the notes of the Assembly Committee on Judiciary from the
 19 hearing held on March 30, 2017, which will address Defendant ETSY’s claims regarding the
 20 legislative intent of the amendments to Proposition 65, which were adopted in 2017, and are
 21 attached herein as Exhibit C:

22 **Exhibit A:** Black Women for Wellness and the Mercury Policy Project/Tides Center’s
 23 *Amici Curiae* Brief in Support of Appellant/Plaintiff Larry Lee, filed on June 4, 2021 with the Court
 24 of Appeal of the State of California, First Appellate District, in *Larry Lee v. Amazon.com, Inc.*, Case
 25 No. A158275. Federal courts recognize that court filings (including *amicus* briefs) are public
 26 records, and as such, may be judicially noticed. See *Harris v. Cty. of Orange*, 682 F.3d 1126, 1131-
 27

1 32 (9th Cir. 2012); *Reyn's Pasta Bella, LLC v. Visa USA, Inc.*, 442 F.3d 741, 746 n.6 (9th Cir.
 2 2006); *In re NJOY, Inc. Consumer Class Action Litig.*, 120 F. Supp. 3d 1050, 1067 (C.D. Cal.
 3 2015). Here, judicial notice is proper as this brief addresses harms associated with mercury-
 4 containing skin creams.

5 **Exhibit B:** Attorney General Rob Bonta *Amicus Curiae* Brief In Support of Appellant
 6 Larry Lee, filed June 7, 2021 with the Court of Appeal of the State of California, First Appellate
 7 District, in *Larry Lee v. Amazon.com, Inc.*, Case No. A158275. Federal courts recognize that court
 8 filings (including *amicus* briefs) are public records, and as such, may be judicially noticed. *See*
 9 *Harris v. Cty. of Orange*, 682 F.3d 1126, 1131-32 (9th Cir. 2012); *Reyn's Pasta Bella, LLC v. Visa*
 10 *USA, Inc.*, 442 F.3d 741, 746 n.6 (9th Cir. 2006); *In re NJOY, Inc. Consumer Action Litig.*, 120 F.
 11 Supp. 3d 1050, 1067 (C.D. Cal. 2015). Here, judicial notice is proper as this brief contains relevant
 12 reflections of the California Attorney General regarding Proposition 65.

13 **Exhibit C:** Notes of the Assembly Committee on Judiciary from the hearing held on
 14 March 30, 2017, regarding Assembly Bill 1583. Judicial notice may properly be taken of the
 15 legislative history of state statutes, including records and reports of administrative bodies. *See*
 16 *Anderson v. Holder*, 673 F.3d 1089, 1094 n.1 (9th Cir. 2012); *Rhodes v. Sutter Health*, 949 F. Supp.
 17 2d 997, 1001 (E.D. Cal. 2013). Here, judicial notice is proper as these notes address Defendant
 18 ETSY's claims regarding the legislative intent of the amendments to Proposition 65, which were
 19 adopted in 2017.

20 DATED: August 20, 2024

21 Respectfully Submitted,

22 GREENFIRE LAW, PC

23 By: /s/ Rae Lovko

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2 Under N.D. Cal. Local Rule 5-1(i)(3), in lieu of a signature, I attest that I obtained approval,
3 on August 20, 2024, from Rae Lovko for the filing of this declaration.

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/s/ Rachel S. Doughty

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